

Appl. No. 10/083,093

Response to Office action dated June 14, 2006

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Amendments to the Drawings:

The attached sheets of drawings include new reference numerals 160-166 to indicate the upper portion 160 of opening, the lower portion 162 of opening, the chamfer edge 164 of opening and the cylindrical portion 166 of opening. These sheets replace the original sheets including FIGS. 3-4. No new matter is added.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

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Remarks/Arguments:**I. Introduction**

Upon entry of the present amendment, claims 1-8, 10, 13-18, 25-27, and 29-39 will be pending in this application. Independent claims 1, 13, 25, 27 and 39 have been amended to further clarify the invention. New claims 40-46 have been added. Support for the claim amendments and new claims appears in the Figures and the specification, specific portions of which will be referred to below. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

II. Amendments to Specification and Drawings

Applicants have amended the specification and the drawings to more clearly define the elements of opening 60. For example, the addition of the following terms and reference numerals are clarified:

Upper portion – 160

Lower portion – 162

Chamfer edge – 164

Cylindrical portion – 166.

It is well-settled that figures or drawings may support an amendment. An applicant may show possession of an invention by disclosure of drawings that are sufficiently detailed to show that applicant was in possession of the claimed invention as a whole. Because Applicant disclosed these features in the originally-filed drawings, no new matter has been added. "Drawings alone may provide a written description." See MPEP 2163 (other citations omitted); *see also In re Wolfensperger*, 302 F.2d 950 (USPQ 1962) (holding that

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drawings may provide the basis for subsequent amendments to the specification without producing prohibitory new matter.)

III. 35 U.S.C. § 102

The Examiner has maintained his rejection of all pending claims under U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,645,606 to Oehy. The Examiner states that Oehy et al. disclose an acetabular shell or cup 5 having openings with an extended nonthreaded frustoconical taper section 25 and a rounded section with a concave surface 25a beginning at a narrow end of the frustoconical section, with each opening 12 capable of receiving any type of fastening element 14, with spherical undersurfaces (16a, 14a) seatable in a plurality of angular positions. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

First, Applicants have clarified claim 1 to recite that the opening has two portions, an upper portion and a lower portion. The upper (tapered) portion is where the spherical head contacts the opening; the lower portion does not contact or receive the spherical head. This configuration is shown clearly by Figure 6¹, and it is described in the specification at page 25, lines 8-18. In summary, that section describes that the lower portion (e.g., small diameter section 66) provides a greater amount of space in which a rounded portion of a non-locking screw may maneuver (*see e.g.*, Figure 5). By implication and as shown in Figures 6-8, the insertion member with a spherical head is not seated in the lower portion, but instead, it locks relative to the tapered upper portion only.

¹ Applicants again point out that that figures or drawings may support an amendment without adding new matter.

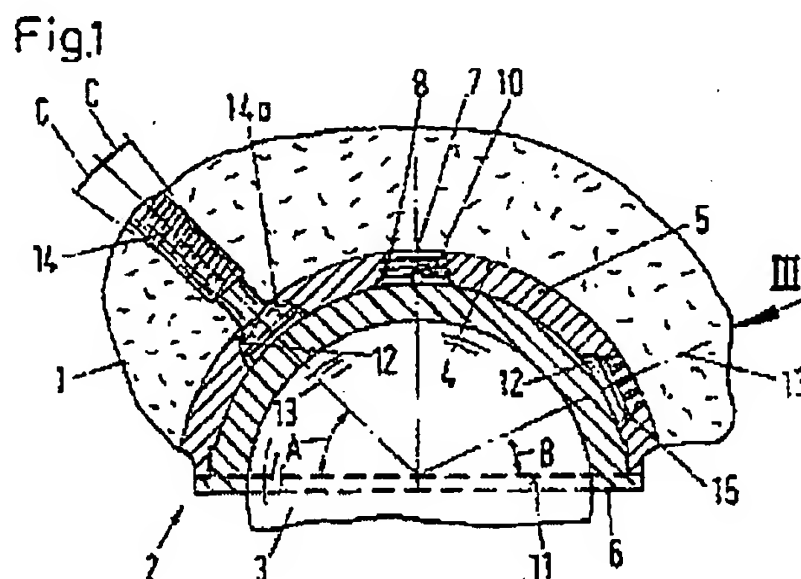
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By contrast, the entire head of the Oehy fastener sits down in the lower rounded portion of the opening. The spherical support surface 25a is the portion that accommodates or secures the head part 14a of the fastener 14.



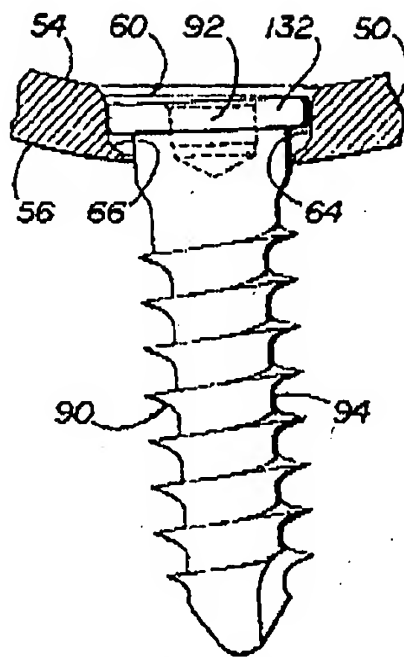
There is no part of the Oehy fastener that contacts an upper portion of the opening but that *does not contact a lower portion of the opening*, as presently claimed.

On the other hand, the present claims provide an insertion member with a rounded or spherical head (which is essentially a partitioned imaginary sphere, see page 28, line 20 to page 30, line 14, of the specification and Figures 10-11), that locks against the tapered upper portion only. The lower portion provides a place for a non-locking screw to be received, and also allows room during adjusting to prevent the insertion member head from protruding beyond the first surface, but the lower portion is not what locks or receives the spherical head. The upper tapered portion of the opening is what locks with the insertion member in a fluid tight or mechanically locked relationship.

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As shown above, in embodiments of the present invention, there is a gap between the second surface of the prosthetic component and the bottom of the insertion member head. This feature is not shown or described in Oehy.

IV. Previous Arguments Incorporated (and Reproduced below for convenience)

Applicants also reincorporate all of the arguments that were made in previous responses. They are reproduced here for convenience:

The Oehy reference does not show or describe an insertion member with a rounded, nonfrustoconical contact surface that contacts the frustoconical taper of the opening when locked relative to the frustoconical taper.

The Examiner stated in the advisory action that the claims did not recite that insertion member contacts the frustoconical taper section when the insertion member is *locked relative to* the frustoconical taper section. (The Examiner's position is that the Oehy insertion member would necessarily contact the frustoconical taper section of opening as it is *inserted*

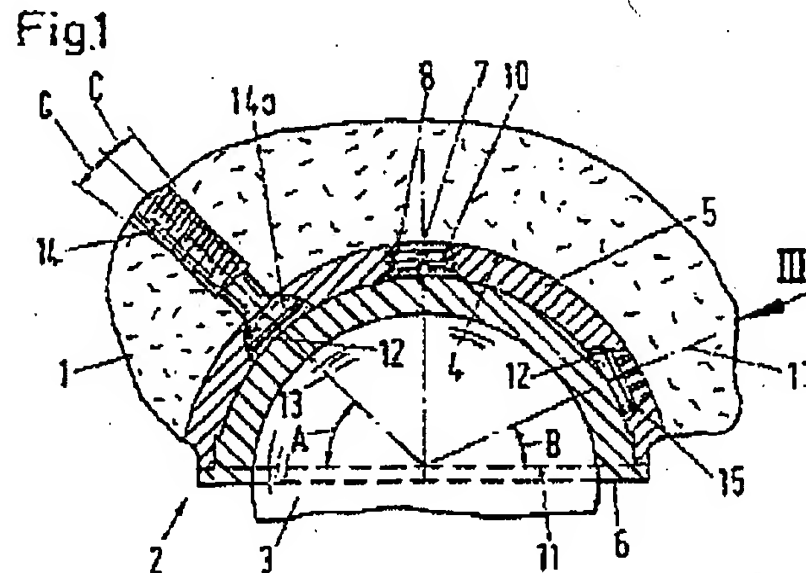
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into opening, implying correctly that is it not locked relative to that section when in a locked position, but instead sits flush with the rounded section as shown below.)



The claims as presented clarify that the claimed insertion member "contacts the frustoconical taper section when locked relative to the frustoconical taper." This feature is not shown or described by the Oehy reference and thus, the reference does not anticipate the pending claims.

V. New Claims

Applicants have added new claims 40-46 to more clearly define features of the invention.

- Claim 40 adds the limitation removed from claim 1 in a dependent claim.
- Claim 41 defines the gap between the second surface and the insertion member head. Support appears in Figure 6:
- Claim 42 defines the insertion member head as a spherical slice. Support appears in the specification at page 28, line 20 to page 30, line 14 and Figures 10-11.

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- Claim 43 defines the insertion member head as spherical and defines the upper portion as a conical taper. Support appears in the specification at pages 23-24 and the Figures.
- Claim 44 defines a prosthetic component opening as shown in Figure 4. Support appears in the specification at pages 23-25 and Figure 4.
- Claim 45 further defines the rounded section of claim 44. Support appears in the specification at page 24, line 10-22.
- Claim 46 defines the insertion member for use with the prosthetic component of new claim 44. Support appears throughout the specification and in the figures.

CONCLUSION

For at least the above reasons, Applicants respectfully request allowance of all pending claims and issuance of a patent containing these claims in due course. If there remain any additional issues to be addressed, the Examiner is invited to contact the undersigned attorney at 404.815.6147.

Respectfully submitted,

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